



DEPARTMENT OF THE NAVY
NAVAL AIR SYSTEMS COMMAND
NAVAL AIR SYSTEMS COMMAND HEADQUARTERS
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IN REPLY REFER TO

NAVAIRINST 7040.14B
AIR-7.6.3
9 Jun 1997

NAVAIR INSTRUCTION 7040.14B

From: Commander, Naval Air Systems Command

Subj: PROPER USE OF APPROPRIATED FUNDS

1. Purpose. This instruction provides the Naval Air Systems Command (NAVAIR) policy to ensure proper use of appropriated funds.

2. Cancellation. This instruction revises NAVAIRINST 7040.14A of 13 October 1987 in its entirety, thus changes are not indicated.

3. Background. Authorization Acts establish the purpose and guidelines for a given activity and the maximum amounts that may be appropriated; however they do not convey obligational authority. Appropriation Acts provide the authority to enter into obligations that will result in immediate or future outlays involving Government funds (i.e., to make spending commitments and spend money). There are several statutes which govern the availability or use of Federal appropriations once enacted and released. Two fundamental statutes are 31 United States Code (USC) 1301(a) and 31 USC 1517.

a. 31 USC 1301(a) requires that appropriated funds only be used for the purposes and programs which were set forth by Congress in the appropriation. The agency's budget request is an important reference standard for determining proper purpose and the relationship of an expenditure to an appropriation. However, the inclusion of an item which is otherwise prohibited by law in budget estimates does not legitimize the expenditure of funds for that object or make that appropriation available for that purpose after the appropriation of funds. Likewise, it cannot be assumed that the "burying" of an item in budget justifications which is otherwise prohibited by law and by the subsequent appropriation of funds by Congress constitutes the authority to make the expenditure (an appropriation would be available for an otherwise prohibited item only if Congress made explicit reference to that item which, in effect, waives any statutory prohibitions.)

b. The Antideficiency Act, 31 USC 1517, restricts agencies from incurring obligations or expenditures in excess of the apportionment made for an appropriation or from obligating the government for payment of money for any purpose in advance of appropriations made for such purpose. When a 31 USC 1301(a) purpose violation is discovered, the charges must be transferred to the proper appropriation. If insufficient funds exist in the properly chargeable appropriation, a potential Anti-Deficiency Act violation exists and must be officially investigated. A violation of 31 USC 1517 may result in adverse personnel actions or criminal penalties.

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4. Policy. NAVAIR will expend funds only for those purposes for which they were appropriated. The annual Department of Defense (DOD) Appropriation Act contains language covering each appropriation. Interpretation of this language is contained in various Congressional reports, DOD and Department of the Navy financial management regulations, instructions, notices, and publications. Since it is not practical to specify every program or item of expenditure, NAVAIR has the discretion of carrying out the intent of the appropriation and employs the "necessary expense doctrine" and the bona fide needs rule to reasonably determine legitimacy of charges against the various appropriations.

a. Under the concept of the "necessary expense doctrine," three tests must be met:

(1) the expenditure must bear a logical relationship to the appropriation sought to be charged;

(2) the expenditure must not be prohibited by law; and

(3) the expenditure must not otherwise be provided for or fall within the scope of some other appropriation. There are circumstances where two appropriations may be construed to be available for expenditures of a particular object. Once an agency has elected to use one appropriation over another, it must continue to use that appropriation to the exclusion of any other appropriation unless changed through the budget process. Once an appropriation has been selected and used, the fact that insufficient funds may exist later in the selected appropriation does not warrant use of another appropriation.

b. The bona fide needs rule requires that a fiscal year appropriation may only be obligated to meet a legitimate, or "bona fide," need arising in or in some cases arising prior to but continuing to exist in the fiscal year for which the appropriation was made. In other words, agencies may obligate appropriated funds only for properly incurred expenses of the period of availability of the appropriation charged or sought to be charged. To truly be a bona fide need, work efforts should begin shortly after the contract has been awarded or the activity has accepted the funds for the work.

5. Execution Issues. The following costs and financial issues are discussed to ensure that the funds appropriated for NAVAIR programs are properly executed:

a. Sufficient Programmatic Descriptions on Funding Documents. Budget execution is the process established to carry out the programs for which funds were appropriated. Administering offices, operating budget and suballocation holders, and fund administrators execute the budget through the signing of contracts, project orders, work requests, and other funding documents. Funding documents authorize organizations to provide specified goods and/or services and obligate the government to make payments for such goods and services. The statements of work on the funding documents should be clear and concise and of sufficient detail to enable AIR-7.6 personnel at both the issuing and receiving activity to conduct a 31 USC 1301(a) review and the performing activity to have a clear understanding of the work and/or service requested by the

b. It is important to note that statutory limitations and restrictions imposed on appropriated funds are not changed when a customer places an order with a Navy Working Capital Fund (NWCF) activity. The appropriation cannot be expanded or otherwise changed by acceptance of funds by the NWCF activity. Appropriated funds cited on a reimbursable order are available only for the purposes permissible under the source appropriation and remain subject to the same restrictions. Therefore, NAVAIR and Naval Aviation Systems Team personnel will not request or direct a field activity to expend funds for purposes for which they were not appropriated or made available to a field activity.

c. NAVAIR headquarters personnel are prohibited from providing direction to field activities verbally or by written correspondence that would expend appropriated funds for work, services, or procurement of equipment for purposes other than that authorized on field funding documents by AIR-7.6. This prohibition also applies to premature release of accounting data on field documents prior to authorization by AIR-7.6. Such unauthorized direction could result in a violation of 31 USC 1301(a) or 31 USC 1517. In addition, NWCF activities may not commence work prior to the receipt of approved customer funding documents or receipt of advance from a non-Federal Government agency. The issuance of a commanding officer's order or the acceptance of a letter of intent are the only exceptions to this policy.

d. Headquarters Costs and Expense Operating Budget (EOB) Activities. NAVAIR Headquarters and NAVAIR EOB activities receive a separate allocation to support their mission and all support costs. Therefore, program funds are not authorized to augment funds for mission related expenditures at these activities.

e. Other Customer/Field Activity Travel. All accounting data citing other customer funds must be authorized by AIR-7.6.2 prior to the release of travel orders. Additionally, any direct citing of field activity accounting data must first be approved by the appropriate field activity comptroller and then coordinated with AIR-7.6.2.


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Comptroller

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